

## REMARKS

Applicant appreciates the examiner's thorough examination of the application and consideration of the prior art. Reexamination and reconsideration are respectfully requested in view of the preceding amendment and the following remarks.

Applicant has provided an outdoor lounge chair that allows a female user to lie comfortably face down in a horizontally prone orientation. The chair employs a breast accommodating pocket that peripherally surrounds, completely encloses and hides the female user's breast and at the same time is spacious enough to avoid exerting virtually any pressure against most users' breasts. There are no lounge chairs available and, indeed, the prior art does not disclose any lounge chairs that employ such a pocket or obtain the advantages of applicant's invention. Indeed, the breast accommodating pockets cited by the examiner employ constricted and/or at least partially open constructions that achieve neither the user privacy nor the user comfort of applicant's device. Significantly, these known devices are employed as pregnancy support products wherein the outdoor privacy and comfort concerns of non-expectant users (to whom applicant's invention is directed) are not of paramount importance.

The examiner has objected to informalities in the specification and claims. Those matters have been addressed and corrected in the foregoing amendment.

The examiner has rejected claims 1 – 3, 9, 12 and 13 under 35 U.S.C. §102 as being anticipated by Hamilton. That reference discloses a pregnancy supporting chair assembly wherein the fabric of the chair may be longitudinally adjusted to accommodate the breasts and abdomen of the pregnant female user. As shown in FIG. 5 of Hamilton, the sides of the accommodated breasts and abdomen are clearly exposed.

In contrast, in claim 1 as amended, applicant sets forth an outdoor lounge chair including a generally horizontal body support assembly for supporting the user in a horizontally prone position. There is a leg assembly for holding the support assembly above the ground or the like. The support assembly includes an opening for receiving the breasts of a female user. A pocket is attached to and depends from a lower side of the support assembly for peripherally surrounding, fully enclosing and completely obscuring from view the breasts received through that opening. The pocket is composed of a thin, lightweight, flexibly collapsible material that hangs loosely beneath the support member and extends perpendicularly downwardly at least 4½" therefrom. The pocket has a shape that does not conform to a female's breasts. As a result, sufficient clearance is provided between the breasts of most female users and the bottom of the pocket so that such breasts do not directly engage the bottom of the pocket, instead they hang substantially loosely within the pocket without pressure being exerted by the pocket against the breast. Moreover, the pocket is large enough for loosely accommodating the accessories of most female users, even when the user is lying prone on the support assembly with the user's breasts accommodated in the pocket.

Under 35 U.S.C. Section 102, anticipation requires that each and every element of the claimed invention be disclosed in a prior art reference. Akzo N.V. v. U.S. International Trade Commission, 1 USPQ 2d 1241 (Fed. Cir. 1986). Absence from a cited reference of any element of the claim negates anticipation of that claim by the reference. Kloster Speedsteel AB v. Crucible Inc., 230 USPQ 81 (Fed. Cir. 1986).

Hamilton does not disclose a number of features set forth in applicant's claim 1 as amended. Specifically, Hamilton does not employ a pocket that peripherally surrounds, fully encloses and completely obscures from view the breasts received through the opening in the support assembly. In contrast to new claim 23, the pocket alleged in Hamilton does not peripherally surround the opening in the support assembly. Instead, the sides of the alleged pocket in Hamilton are clearly open such that at least the sides of the user's breasts and abdomen are exposed. This structure therefore does not anticipate applicant's claim 1 as amended.

In addition, applicant has further limited the structure of the pocket by providing that it has a depth of at least 4½" such that the breasts of most female users do not engage the bottom of the pocket. Accordingly, pressure is not exerted by the pocket against the breast, at least for most female users. This is clearly not the case in Hamilton, wherein the breasts are directly engaged with and pressed upon by the bottom of the pocket. Nowhere does Hamilton provide that the depth of the pocket is at least 4½" below the support assembly. Indeed, at least for the user's breasts, that depth is clearly much less than 4½".

The examiner has rejected claims 15 – 18 as being anticipated by Sewell. In addition, claims 15, 17 and 18 have been rejected as being anticipated by Boggs. Each of these references discloses a lounge chair having an aperture for accommodating the user's face so that a book or other reading material may be read. Sewell specifically discloses a book holder 26. That book holder is attached by rigid pivot arms to the legs of the lounge chair.

In contrast, applicant provides in claim 19, as amended, a lounge chair that includes a breast accommodating pocket, as well as a reading material holder. Applicant's reading material holder includes spaced apart first and second strap segments that depend perpendicularly and vertically from a lower side of the support assembly on respective sides of the face-accommodating aperture. There is an intermediate strap segment that interconnects the lower ends of the first and second strap segments and extends horizontally beneath the aperture for supporting reading material thereon. The first and second strap segments are composed of a flexibly collapsible material that permits the reading material holder to be collapsed into a substantially flattened condition when the upper segment of the support assembly is folded into a juxtaposed condition against one of the intermediate and lower support segments.

Neither Boggs nor Sewell discloses the structure of applicant's reading material holder. In particular, that structure is shown in FIGS. 4 and 5 of applicant's drawings. Unlike Sewell, applicant's reading material holder is attached by means of flexibly collapsible first and second straps that are attached directly to the bottom side of the upper support segment on respective sides of the face-accommodating aperture. Applicant does not employ the rigid pivot arms of Sewell, which are attached to the legs of the lounge chair and not directly to the lower side of the upper support segment. As a result, applicant's reading material holder collapses quickly, conveniently and compactly into a flattened condition when the lounge chair is folded. This is a significant improvement over the bulky and fairly complex bookrack disclosed by Sewell. Applicant submits that a basis for patentability is therefore provided.

The examiner has rejected claim 16 under 35 U.S.C. §103 as being obvious in view of Boggs. That claim has not been canceled. In any event, applicant submits that Boggs does not disclose the reading material holder as set forth in claim 19, as amended.

Claims 1 – 5, and 9 – 13 have been rejected under 35 U.S.C. §103 as being unpatentable over Nation in view of Sockwell, II et al. Nation discloses a maternity beach chair wherein an abdomen conforming pouch 56 is formed in an intermediate section of the chair. The device does not employ a breast-accommodating pocket. Sockwell likewise discloses a board for supporting pregnant women. It appears that this device is intended largely, if not exclusively, for indoor use. The board apparently employs breast and abdomen accommodating receptacles having rounded shapes generally conforming to the breasts and abdomen of the pregnant female user. See FIG. 4 of the reference. The board is set up at a slight incline, not in a horizontal condition. When the board is collapsed, as shown in FIG. 4, the breast and abdomen receptacles (which are clearly not composed of a thin, collapsibly flexible material) maintain a rounded, open condition.

Applicant's lounge chair, as set forth in the amended claims, utilizes a structure that is not shown or suggested by either Nation or Sockwell. As provided in claim 1 as amended, applicant utilizes a breast-accommodating pocket that is composed of a lightweight, thin and flexibly collapsible material, which hangs loosely beneath a lower side of the support assembly. The pocket has a depth of at least 4½" such that the breasts of most female users are spaced apart from the bottom of the pocket. This relieves any pressure that would be otherwise exerted upon the breasts by the pocket.

As further set forth in claims 11 and 20, the breast-accommodating pocket is preferably located in the upper segment of a lounge chair including three distinct segments. When the upper segment is folded into a juxtaposed condition against one of the other segments of the chair, thin, lightweight flexible material of the breast-accommodating pocket is collapsed into a substantially flat condition.

Applicant employs a breast pocket that is obviously completely lacking in Nation and is very different in construction and function from the breast-accommodating receptacle shown in Sockwell. Whereas Sockwell employs a rounded, rigid receptacle, applicant's claimed breast pocket is composed of a thin, lightweight and flexibly collapsible material. Please note that when the Sockwell support platform is collapsed into a vertical condition (FIG. 4), the breast and abdomen pockets remain fully open and exhibit a shape that generally conforms to the shape of the female user's breasts and abdomen respectively. When the user lies upon the Sockwell board, her breasts are not accommodated in a pocket that hangs loosely from a horizontal assembly and extends perpendicularly vertically therefrom. Instead, the user is reclining against the board at a slight angle. Her breasts and abdomen are snugly received by and generally conform to the shape of the breast and abdomen receptacles of Sockwell. Nowhere does Sockwell mention that the breast pocket has a depth of at least 4½". As a result, Sockwell's board does not provide the clearance, comfort and other benefits of applicant's assembly.

Not only do the cited references lack applicant's claimed structure, they do not disclose the reason for applicant's construction or the benefits resulting therefrom.

...The lesson of this case appears to be that prior art references...do not make an invention obvious unless something in the prior art references would suggest the advantage to be derived from combining their teachings.

In re Sernaker, 217 USPQ 1, 6 (CAFC 1983). See also In re Gordon, 221 USPQ 1125 (Fed Cir. 1984).

Without the benefit of applicant's disclosure, there would be no reason to select the individual features of Sockwell and employ them in Nation. Sockwell and Nation are used for very different applications. The former device is obviously an indoor device designed for supporting and relieving stress upon a pregnant woman. Nation, on the other hand, relates to an outdoor lounge chair. Nation provides no teaching of the desirability of using Sockwell's breast accommodating receptacle in an outdoor lounge chair. The privacy concerns of obscuring the breast during outdoor lounging or sun tanning are not addressed by either reference. Indeed, it is not at all apparent whether or how the breast accommodating pocket of Sockwell could be incorporated into the Nation device. Sockwell certainly does not disclose placing a breast-accommodating pocket in the upper segment of a foldable three segment outdoor lounge chair. Applicant alone discloses this structural limitation. Sockwell includes only a single segment, non-foldable support assembly, whereas, the abdomen receiving pocket shown in Nation (the abdomen pocket) is located in the middle or intermediate segment of the lounge chair.

Applicant alone is concerned with providing a lounge chair that allows women to lie face down in an outdoor setting for sun tanning or lounging such that the women's breasts are both comfortably accommodated and fully enclosed and obscured for privacy. None of the cited references accomplish or teach the desirability of either of

these benefits. As previously described, Sewell lacks both privacy and comfort. The sides are open and pressure is placed against the expectant mother's breasts. Nation likewise lacks both comfort and privacy. The precise shape of the pregnant women's abdomen is exposed beneath the chair. At the same time, pressure is exerted on both the abdomen and breasts. Finally, Sockwell employs pockets with shapes that closely conform to the shape of the breast and abdomen. See FIG. 4. This certainly does not provide the pregnant women with optimal privacy, which is truly not a concern as the device is obviously intended for indoor maternity use. At the same time, the breast-accommodating pocket of Sockwell is not composed of a thin, flexibly collapsible material that hangs loosely beneath the support assembly and is sized (e.g. at least 4.5 inches deep) such that its bottom is spaced apart from most female users' breasts. The prior art device obviously exerts pressure on the breasts and is therefore not nearly as comfortable as applicant's claimed structure. Moreover, when any of the cited art patents, either alone or in combination, are collapsed, a substantially flat breast accommodating pocket is not achieved. Once again, the Sockwell pocket is not collapsed when the board is folded and, indeed, the pocket does not appear to be composed of collapsible material. Applicant alone teaches such structure.

Applicant's claims set forth unique structure. The invention exhibits fundamentally unique benefits resulting from that structure. As a result, applicant's invention is patentable.

The examiner has rejected claim 6 under 35 U.S.C. §103 as being unpatentable over Nation in view of Sockwell, II et al. and further in view of Johnson. Claims 7, 14 and 19 have likewise been rejected over Nation in view of Sockwell, II et al. and further



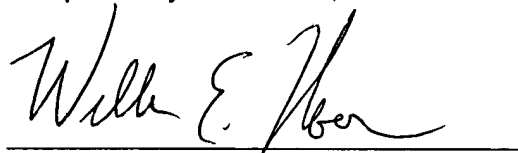
in view of Boggs. Claims 7, 8 and 19 have been rejected §103 over Nation in view of Sockwell, II et al. and further in view of Sewell. Each of these rejected claims now includes all of the features of their respective amended independent claims as set forth above. The amendments to these independent claims patentably distinguish those claims from the cited references. Accordingly, applicant submits that the rejected dependent claims are likewise patentable over the prior art.

Each of the examiners objections and rejections has been addressed and traversed. Accordingly, it is respectfully submitted that the application is in condition for allowance. Early and favorable action is respectfully requested.

Applicant is submitting herewith the request for extension of time in the first month and the extension fee (\$55).

If a telephone conference would help to advance the prosecution of this application, the examiner is invited to telephone the undersigned at (239) 481-0900.


Respectfully submitted,



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#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 15<sup>th</sup> day of November, 2004.

  
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